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MEMORANDUM

To: Sex Crimes Interim Study Committee

From: Beth Lenstra and Jennifer Acton

Date: November 21, 2005

RE: Responses to questions regarding sex offender issues

The following are responses to questions asked by members of the Sexual and Other Criminal Offenses, Criminal Penalties, and Sentencing Practices Interim Study Committee.

1. Is there a disclaimer regarding the risk assessments on the sex offender web site?

As of November 20, there is no disclaimer on the web site regarding risk assessments. The Department of Public Safety (DPS) has been in negotiations with the Department of Administrative Services (DAS) to move the web site to a new platform and will make changes, including the disclaimer, once that is complete. The move should occur within the next 30 days.

2. Will the Department of Public Safety respond on any gap there may be on the web site because some offenders will not have a risk assessment because they were eliminated for one year?

The Department plans to include language on the web site explaining the law and why there are so many registrants with "Assessment Not Required by Law" under their photos.

3. How many offenders on the web site may be impacted by the 2,000 foot rule?

As of November 1, 2005, there were 6,035 registrants on the Sex Offender Registry. Of this number, 5,241 registrants may be affected by the 2,000 foot rule. The language in the Code of Iowa includes anyone "ever" convicted (the Code uses the term "committed") and those who go off the Registry after completing 10 years. The Department has no way of identifying this population as this would also include those convicted outside of Iowa who move into the State as well. These offenders would be identified if they committed a crime that would place them back under Department of Corrections (DOC) supervision; however, unless these offenders commit a crime, they may never be identified.

4. What is statutory rape?

The Code of Iowa does not define statutory rape. The term is usually used when the circumstances of the sex act were otherwise consensual, but defined as an offense because the

person was below the age of consent as specified by law. Sixteen years of age is the age of consent. Example – a 16 year old and a 20 year old is not statutory rape. It is illegal to have sex with anyone age 13 and under regardless of age. Example – If a 13 year old has sex with a 14 year old, this is considered statutory rape. In regards to 14 and 15 year olds, if they have sex with someone four or more years older, it is considered statutory rape. Examples – 14 year old and an 18 year old – yes statutory rape, 15 year old and a 19 year old – yes statutory rape, an 18 year old and a 15 year old – no statutory rape, and a 17 year old and a 14 year old – no statutory rape. Also, keep in mind that some people use the term "statutory rape" to apply to an act committed with someone over the age 18 who is deemed to be incapable of consenting to sexual relations, such as a person who is over 18 but significantly impaired due to developmental disability.

5. How many sex offenders are convicted annually? What is their sentence disposition?

According to information from the Justice Data Warehouse, there were 539 offenders convicted of sex offenses in FY 2004 and 529 offenders convicted in FY 2005. Of the offenders convicted in FY 2005, 317 (59.9%) were sentenced to prison and 178 (33.6%) were sentenced to probation. The remaining 34 (6.4%) offenders received a sentence other than prison or probation, such as jail and/or a fine and/or community service.

Disposition of sentence data will be impacted by the enhanced sentencing provisions in HF 619, so sentence disposition data may be significantly different in FY 2006.

The table below shows the number of sex offenders under correctional supervision by type of offense.

Sex Offenders Under Supervision by Type of Offense

Type of Offense	CBC	% of CBC	Prison	% of Prison	Total	% of Total
Rape (Old Code)	0	0.0%	2	0.2%	2	0.1%
Sexual Abuse - First Degree	0	0.0%	2	0.2%	2	0.1%
Sexual Abuse - Second Degree	60	7.3%	305	25.4%	365	18.0%
Sexual Abuse - Third Degree	259	31.3%	605	50.3%	864	42.6%
Assault with Intent to Commit Sex Abuse	106	12.8%	61	5.1%	167	8.2%
Incest	20	2.4%	11	0.9%	31	1.5%
Indecent Contact With a Child	58	7.0%	17	1.4%	75	3.7%
Indecent Exposure	52	6.3%	5	0.4%	57	2.8%
Lascivious Acts with a Child	140	16.9%	136	11.3%	276	13.6%
Sexual Exploitation of Children	32	3.9%	25	2.1%	57	2.8%
Sexually Violent Predator	4	0.5%	31	2.6%	35	1.7%
NCIC-Sex Offense	78	9.4%	1	0.1%	79	3.9%
Other Sex Offenses	18	2.2%	2	0.2%	20	1.0%
TOTAL	827	100.0%	1,203	100.0%	2,030	100.0%

Source: DOC

CBC population is as of 9/30/2005.

Prison population is as of 10/31/2005.

6. What is the recidivism rate of sex offenders?

Recidivism information is provided by the Criminal and Juvenile Justice Planning Division (CJJPD) of the Department of Human Rights and is based on arrest data and return to prison for technical violations of parole. The CJJPD studied 1,107 offenders placed on the Sex Offender Registry who received a sex risk assessment between July 1998 and October 2000. The recidivism rate for sex offenders on the Sex Offender Registry, with 3.3 years of

follow-up, is 33.2% (368 offenders) for all crimes including technical violations. The arrest rate for new sex offenses is 3.7% (14 offenders). The remaining 354 offenders were either revoked to prison for technical violations or arrested for a non-sex offense.

7. How many offenders knew their victim?

According to the CJJPD, approximately 80.0% of victims knew the offender. Based on information in the Uniform Crime Reports provided by the Department of Public Safety, about 73.8% of all sex offenses occurred in the residence or home of the victim.

8. What is the cut off score on the risk assessment instrument that qualifies an offender as needing electronic monitoring?

According to the Department of Corrections (DOC) policies, there is no set risk assessment score to determine the type of bracelet used. Field services staff and supervisors are using professional judgment as well as risk assessment information to determine whether or not an offender is placed on a bracelet, and what type of bracelet is used. Professional judgment factors include a review of how compliant the offender is with supervision and treatment. These judgments are being made with the amount of available resources in mind as well.

9. What are the estimated costs of the Global Positioning System (GPS) bracelet plus staff to provide an immediate response to a report of violation regarding the bracelets?

The DOC and Judicial Branch have provided preliminary estimates for the costs of electronic monitoring based on the interpretation of the language in HF 882 (FY 2006 Standing Appropriations Act). The DOC and Judicial Branch are in the process of refining the budget estimates, so these figures may be adjusted in the future. The cost for electronically monitoring adult sex offenders using the Global Positioning System (GPS) may be an additional \$2.6 million. This figure includes costs for additional GPS devices plus staff for immediate response.

The DOC is requesting \$1.3 million for sex offender treatment and supervision for FY 2007. The main focus of that request is treatment and supervision, not necessarily GPS monitoring.

The cost for electronically monitoring juvenile sex offenders under the jurisdiction of the court system ranges from \$500,000 to \$1.0 million in additional funding. Note that agreements exist between the Executive and Judicial Branches so that Juvenile Court Officers have access to electronic monitoring devices from the Fifth CBC District Department.

The estimates noted above do not include the potential exponential growth of demand and costs for electronic monitoring devices in future fiscal years.

Sources:

Criminal and Juvenile Justice Planning Division
Department of Corrections
Department of Public Safety
Judicial Branch